

U. S. DEPARTMENT OF LABOR

Employees' Compensation Appeals Board

In the Matter of DAVID E. SCHRAMP and U.S. POSTAL SERVICE,
POST OFFICE, Motoursville, PA

*Docket No. 00-655; Submitted on the Record;
Issued January 29, 2001*

DECISION and ORDER

Before MICHAEL J. WALSH, MICHAEL E. GROOM,
A. PETER KANJORSKI

The issue is whether appellant has established that he sustained an emotional condition causally related to compensable factors of his federal employment.

On April 27, 1998 appellant, a postal worker, filed a claim alleging that he suffered from anxiety and depression due to mounting stress, which resulted in a suicide attempt on April 7, 1998. In statements accompanying his claim, he attributed his emotional condition and suicide attempt to the actions of his supervisor, Patrick Corrigan. Appellant stated that Mr. Corrigan supervised his office for six years, left his position for a year and a half and later returned in April 1998. He alleged that he had been the subject of repeated harassment by Mr. Corrigan during his tenure and later filed a grievance on the issue. Appellant was admitted to Geisinger Medical Center for psychiatric evaluation and treatment from April 8 to 14, 1998 following his suicide attempt. A supervisor from the employing establishment indicated that appellant stopped work on April 7, 1998 and returned on May 6, 1998.

In a decision dated October 7, 1998, the Office of Workers' Compensation Programs denied appellant's claim on the grounds that the evidence of record failed to establish that the claimed medical condition or disability was causally related to the injury. Appellant requested a review of the written record and by decision dated July 26, 1999, an Office hearing representative affirmed the prior decision.

The Board has duly reviewed the case on appeal and finds that appellant failed to meet his burden of proof in establishing that he developed an emotional condition causally related to compensable work factors.

Workers' compensation law does not apply to each and every injury or illness that is somehow related to an employee's employment. There are situations where an injury or illness has some connection with the employment but nevertheless does not come within the concept of workers' compensation. When disability results from an emotional reaction to regular or

specially assigned work duties or a requirement imposed by the employment, the disability is compensable. Disability is not compensable, however, when it results from factors such as an employee's fear of a reduction-in-force or frustration from not being permitted to work in a particular environment or to hold a particular position.¹

Appellant has the burden of establishing by the weight of the reliable, probative and substantial evidence that the condition for which he claims compensation was caused or adversely affected by employment factors.² This burden includes the submission of a detailed description of the employment factors or conditions, which appellant believes caused or adversely affected the condition or conditions for which compensation is claimed.³

In cases involving emotional conditions, the Board has held that, when working conditions are alleged as factors in causing a condition or disability, the Office, as part of its adjudicatory function, must make findings of fact regarding which working conditions are deemed compensable factors of employment and are to be considered by a physician when providing an opinion on causal relationship and which working conditions are not deemed factors of employment and may not be considered.⁴ If a claimant does implicate a factor of employment, the Office should then determine whether the evidence of record substantiates that factor. When the matter asserted is a compensable factor of employment and the evidence of record establishes the truth of the matter asserted, the Office must base its decision on an analysis of the medical evidence.⁵

Appellant attributed his emotional condition to actions of his supervisor, Mr. Corrigan. Appellant alleged that during Mr. Corrigan's first six years with the employing establishment, the morale in the office was nonexistent and that he and his fellow employees would often become tense in anticipation of Mr. Corrigan's harassing and intimidating tactics. Appellant indicated that morale was lifted when Mr. Corrigan left for a year and a half, and that his stress and anxiety in particular was reduced until Mr. Corrigan returned in April 1998. Appellant alleged that Mr. Corrigan created a tense and stressful atmosphere in his office, which he believed caused stress to his coworkers and contributed to his condition. Appellant's perceptions of such tension, however, does not relate to regular or specially assigned duties and is not considered a compensable work factor.⁶

Appellant has also alleged that he was subject to harassment from Mr. Corrigan and that a grievance had been filed. The record contains a copy of the grievance, which alleged that Mr. Corrigan repeatedly harassed appellant and displayed anger by shouting and pointing his

¹ *Lillian Cutler*, 28 ECAB 125, 129-31 (1976).

² *Pamela R. Rice*, 38 ECAB 838, 841 (1987).

³ *Effie O. Morris*, 44 ECAB 470, 473-74 (1993).

⁴ *See Norma L. Blank*, 43 ECAB 384, 389-90 (1992).

⁵ *Id.*

⁶ *See, e.g., Mary A. Sisneros*, 46 ECAB 155 (1994); *Mildred D. Thomas*, 42 ECAB 888 (1991).

finger in appellant's face. In statements supporting his compensation claim, appellant indicated that Mr. Corrigan would drive around "spying" on employees while on their delivery routes, in an attempt to catch them in behavior that warranted reprimand. Appellant also stated that when Mr. Corrigan returned to his supervisory position after a year and a half, Mr. Corrigan accompanied him on a delivery route during an April 1998 office inspection and later followed him on a route after the inspection had ended. Appellant contended that Mr. Corrigan was very confrontational on these occasions, which also caused him increased anxiety. Appellant argued that one day after his route had ended, Mr. Corrigan told him to clock out and later called him at home to continually harass him on April 7, 1998, which appellant alleged ultimately caused him to attempt suicide. With respect to a claim based on harassment or discrimination, the Board has held that actions of an employee's supervisors or coworkers, which the employee characterizes as harassment may constitute a factor of employment giving rise to a compensable disability under the Act. A claimant must, however, establish a factual basis for the claim by supporting the allegations with probative and reliable evidence.⁷ An employee's allegation that he or she was harassed or discriminated against is not determinative of whether or not harassment occurred.⁸ In this case, appellant has submitted various statements alleging harassment and submitted the grievance filed with the employing establishment with similar allegations, however, he has not submitted evidence sufficient to corroborate his allegations of harassment.⁹ The Board finds that harassment as alleged by appellant has not been established as a compensable factor in this case.

Appellant alleged that on one occasion, he was given contradictory instructions on clocking in by Mr. Corrigan after he returned from his delivery route, contrary to previous instructions. Mr. Corrigan allegedly stated: "I [a]m giving you a direct order! If you do n[o]t like it, file a grievance. I do n[o]t care." According to statements contained in the record, appellant called in sick after this incident and while at home, he later attempted suicide. The employing establishment noted that the clock in was required to change appellant's operational function from street time to office time and that he initiated discussions, which caused a delay extending his street time. The employing establishment noted Mr. Corrigan directed appellant to clock in. The Board finds that the evidence of record does not establish any error or abuse on the part of Mr. Corrigan giving direction to appellant to clock in following his delivery route. The record establishes appellant was told to punch his timecard from street time to office time pursuant with postal guidelines, which listed the disposition of collected mail as a function of office time. For this reason, the Board finds that appellant has not established a compensable factor of employment and will modify the Office's decision in this regard.

For these reasons the Board finds that appellant has not met his burden of proof in this case.

⁷ *Gregory N. Waite*, 46 ECAB 662 (1995); *Barbara J. Nicholson*, 45 ECAB 803 (1994).

⁸ *Helen P. Allen*, 47 ECAB 141 (1995).

⁹ The record reflects that the grievance filed by appellant with the employing establishment alleging harassment by his supervisor was later denied after arbitration.

The decision of the Office of Workers' Compensation Programs dated July 26, 1999 is affirmed, as modified.

Dated, Washington, DC
January 29, 2001

Michael J. Walsh
Chairman

Michael E. Groom
Alternate Member

A. Peter Kanjorski
Alternate Member